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International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the initial report of Côte d'Ivoire*

1. The Human Rights Committee considered the initial report of Côte d'Ivoire (CCPR/C/CIV/1) at its 3140th and 3141st meetings (CCPR/C/SR.3140 and 3141), held on 18 and 19 March 2015. At its 3158th meeting, held on 31 March 2015, it adopted the following concluding observations.

A. Introduction

2. The Human Rights Committee welcomes the initial report of Côte d'Ivoire, which was submitted 20 years after its due date. It takes note of the information presented therein. The Committee expresses appreciation for the opportunity to engage in constructive dialogue with the State party's high-level delegation on the implementation of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/CIV/Q/1/Add.2) to the list of issues (CCPR/C/CIV/Q/1/Add.1), which were supplemented by oral responses by the delegation, and the additional information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the following legislative and institutional steps taken by the State party:

(a) The abolition of the death penalty under the State party's Criminal Code in 2015;

(b) The adoption of the Constitution of 23 July 2000, chapter I of which provides for the protection of the human rights and fundamental freedoms guaranteed by the Covenant and article 87 of which establishes the primacy of the Covenant over national laws;

(c) The adoption of Act No. 2013-33 of 25 January 2013 by which certain provisions of Act No. 64-375 of 7 October 1964 concerning marriage were amended or repealed, which establishes equality between men and women in household management;

* Adopted by the Committee at its 113th session (16 March–2 April 2015).

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(d) The adoption of Act No. 2010-272 of 30 September 2010 prohibiting trafficking in children and the worst forms of child labour.

4. The Committee welcomes the ratification of the following international instruments:

(a) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1995;

(b) The Convention on the Elimination of All Forms of Discrimination against Women in 1995;

(c) The Convention on the Rights of Persons with Disabilities in 2014;

(d) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2011;

(e) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in 2012.

C. Principal areas of concern and recommendations

Incorporation of the Covenant into national law and applicability of the Covenant in national courts

5. The Committee notes that article 87 of the State party's Constitution accords primacy to international treaties over national law; it further notes, however, that the provisions of the Covenant have not been invoked or directly applied by the national courts (art. 2).

The State party should take the necessary steps to raise awareness of the Covenant's provisions among judges, lawyers and prosecutors in order to ensure that they are taken into account before and by the national courts.

The National Human Rights Commission

6. The Committee notes with concern that the mandate of the National Human Rights Commission is insufficiently broad to enable it to address human rights violations, that it is not fully independent and that it lacks the requisite financial independence to fulfil its mandate effectively (art. 2).

The State party is encouraged to broaden the mandate of the National Human Rights Commission to address cases of human rights violations, guarantee its independence and endow it with sufficient resources and financial autonomy so that it may fulfil its mandate effectively in accordance with the Paris Principles.

Dialogue, Truth and Reconciliation Commission

7. The Committee is concerned about reports of certain shortcomings in the procedures conducted by the Dialogue, Truth and Reconciliation Commission, particularly the lack of transparency in the selection of victims to be interviewed, difficulties in accessing victims living in the remotest areas and lack of public hearings. It notes with regret that the Commission's final report, submitted to the President of the Republic on 15 December 2014, has not yet been made public (art. 2).

The State party should publish the report of the Dialogue, Truth and Reconciliation Commission so that the general public, including victims, can take note of its conclusions and recommendations. It should take the necessary steps to ensure that action is taken on the Commission's recommendations.

Discrimination based on sexual orientation

8. The Committee is concerned about reports that lesbians, gays, bisexuals and transgender persons are subjected to discrimination, harassment, threats of physical violence and intimidation and about the impunity enjoyed by the perpetrators of such acts. The Committee is concerned, in particular, about the provisions of article 360 of the Criminal Code, which provides for an aggravation of the minimum penalty prescribed for "gross indecency" when such conduct "consists of an indecent or unnatural act with an individual of the same sex" (arts. 2 and 26).

The State party should enact a general law against discrimination with a view to incorporating the prohibition of discrimination included in the Covenant and enshrined in the Constitution. The State party should also take the necessary steps to protect lesbians, gays, bisexuals and transgender persons against all forms of discrimination, intimidation and violence. The State party should amend the provisions of article 360 of the Criminal Code and any other provision of its criminal legislation that discriminates against persons because of their sexual orientation.

Protection of persons with albinism

9. The Committee is concerned about reports that persons with albinism continue to be exposed to discrimination and negative stereotyping. It is also concerned about the inadequacy of the measures taken to protect persons with albinism against all forms of discrimination (arts. 2 and 26).

The State party should take steps to ensure that persons with albinism are protected, in law and in practice, against all forms of discrimination.

Equality between men and women

10. While the Committee has taken note of the State party's clarifications, it is concerned about statistical data indicating a very low level of representation of women in public service and in the private sector, particularly in senior posts. It is also concerned about the low number of women in elected political positions (art. 3).

The State party should amend all discriminatory legal provisions that impede the advancement of women in public and political affairs. It should also devise special measures to guarantee better representation of women in public affairs and encourage women to stand for election to political positions.

11. The Committee is concerned about the continued existence of provisions that discriminate against women in the State party's legislation on divorce, descent and succession. In particular, the Committee notes with concern that the 1964 Act on divorce and separation still requires women to wait for 300 days before remarrying and that adultery still constitutes a crime under the Criminal Code and is furthermore defined in discriminatory terms when it is committed by a woman. The Committee is concerned, in addition, about the practices of levirate and sororate, and notes that the minimum age for marriage remains different for men and women (arts. 2, 3, 17, 23 and 26).

The State party should, in full compliance with the Covenant, expedite the amendment of its Personal and Family Code and all relevant legislation with a view to guaranteeing equality between men and women and decriminalizing adultery. The State party should also set the same minimum age of marriage for men and women, in accordance with international standards. Furthermore, the State party should step up its public awareness campaigns to help bring about a change in traditional attitudes that impede women's ability to exercise their fundamental human rights.

Harmful practices against women

12. The Committee is concerned about the persistence of certain harmful practices, notwithstanding their prohibition by law, such as female genital mutilation, early marriage and polygamy, particularly in rural areas and in some regions of the State party's territory. Moreover, the Committee is concerned that the State party cites the economic interests of practitioners of excision as an obstacle to prosecution against them (arts. 3, 7 and 24).

The State party should ensure the effective enforcement of Act No. 98/757 of 23 December 1998, which prohibits female genital mutilation, the provisions of the Criminal Code that render early marriage illegal and the legislation that prohibits polygamy. It should also take more vigorous steps to generate public awareness, including among religious leaders and traditional authorities, of the legislation and the harmful impact of such practices on women.

Violence against women

13. The Committee is concerned about violence against women in the State party. The Committee notes that article 346 of the Criminal Code concerning aggravating circumstances makes no provision for cases of domestic violence and that article 354, which criminalizes rape, fails to mention marital rape. It is also concerned about the lack of information and statistics that could be used to assess the scale of such violence, including the sexual violence perpetrated by the Republican Forces of Côte d'Ivoire and by other armed men and that perpetrated in the schools of Bouaké and the western region of the State party's territory (arts. 3, 7 and 26).

The State party should: ensure that the relevant provisions of Act No. 98/757 of 1998 are effectively enforced and amend its Criminal Code to ensure that it explicitly incriminates domestic violence and marital rape; facilitate the processing of complaints concerning domestic violence and protect women against any form of reprisal; ensure that cases of domestic violence are thoroughly investigated and that the perpetrators are brought to justice; ensure that law enforcement officials receive sufficient training to enable them to handle cases of domestic violence; and conduct public awareness-raising campaigns. The State party should investigate and bring to justice the members of the Republican Forces of Côte d'Ivoire and other armed men who perpetrated sexual violence, and it should continue to combat sexual violence in schools.

Right to life

14. The Committee is concerned about reports of the persistence in the State party of extrajudicial executions and enforced disappearances carried out by the security forces, militias and groups that have not been disarmed. The Committee is also concerned about the fact that the numerous cases of extrajudicial executions and enforced disappearances that occurred during the period from 2000 to 2011, including during the 2010–2011 post-election period, have not all been prosecuted and that investigations have been conducted for many years without, in most cases, reaching any conclusion. The Committee is particularly concerned about the substantial delays in the investigations into the Yopougon mass grave, the attack on the Nahibly camp near Duékoué and the mass grave at Torgueï, and about the fact that persons suspected of involvement in international crimes continue to occupy senior posts in the State party (art. 6).

The State party should systematically undertake prompt, impartial and effective investigations to identify the perpetrators, to prosecute them and, if they are found guilty, to sentence them, regardless of their political affiliation, to appropriate penalties and ensure that the victims' families receive appropriate compensation.

With that end in view, the State party should expedite the investigations of cases of extrajudicial executions that occurred during the period from 2000 to 2011 and during the post-election crisis, including the cases of the Yopougon mass grave, the attack on Nahibly camp near Duékoué and the mass grave at Torgueï. It should adopt the measures and procedures required to establish the truth concerning the enforced disappearances that occurred during the same period. The State party should also, pending the outcome of the investigations, take steps to suspend from their duties persons who are suspected of involvement in the commission of international crimes and to expedite the investigations concerning them. It should, in addition, consider ratifying the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.

Voluntary termination of pregnancy

15. The Committee is concerned about article 366 of the Criminal Code, which criminalizes the voluntary termination of pregnancy unless it is necessary in order to save the mother's life, thus prompting women to seek clandestine abortions under conditions that put their lives and health at risk (arts. 6 and 7).

The State party should amend its legislation on abortion to provide for additional exceptions to the prohibition of abortion, for instance when the pregnancy is due to rape or incest, and see to it that women do not resort to clandestine abortions in unsuitable conditions that may put their lives and health at risk. The State party should also guarantee access for women and adolescent girls to reproductive health services throughout the country and organize education and awareness-raising programmes that focus on the importance of contraception and of sexual and reproductive health rights.

Prohibition of torture and ill-treatment

16. The Committee is concerned about the numerous cases of torture by the police, defence and security forces, particularly at the National Surveillance Directorate (DST) and the Centre for the Coordination of Operational Decisions, and by the Republican Forces of Côte d'Ivoire. It is also concerned about reports that torture has neither been defined nor criminalized in the Criminal Code, so that it is difficult to institute prosecutions for torture. The Committee is concerned, in addition, about allegations that perpetrators of acts of torture enjoy impunity, and it notes the lack of information concerning investigations, prosecutions and convictions for acts of torture in the report of the National Commission of Inquiry and concerning those conducted in the State party during the period from 2000 to 2010. Furthermore, the Committee is concerned about the lack of an independent and effective mechanism for receiving and investigating allegations of torture by the police and defence forces. The Committee notes with concern that, according to the provisions of article 419 of the Code of Criminal Procedure, courts are not prohibited from admitting confessions obtained by means of torture (arts. 7 and 14).

The State party should ensure that the relevant provisions of its legislation allow for the prosecution of acts that would qualify as torture. It should also prevent torture from being practised in its territory and ensure that allegations of torture and ill-treatment by the police, security and defence forces, including acts perpetrated during the period from 2000 to 2010 and those mentioned in the report of the National Commission of Inquiry, are thoroughly investigated; it should ensure that the perpetrators are prosecuted and, if they are found guilty, sentenced to appropriate penalties and that the victims are properly compensated and offered rehabilitation services. The State party should, in addition, establish an independent mechanism for investigating complaints of acts of torture and ill-treatment perpetrated by members

of the police and security forces. The State party should ensure that confessions or testimony obtained under torture are systematically declared inadmissible by the courts at any stage of the proceedings.

Human trafficking and child labour

17. The Committee notes with concern the persistence of human trafficking in the State party for the purpose of forced prostitution or labour exploitation and of child labour, particularly in agriculture and trade. It expresses regret at the lack of information regarding convictions and the leniency of the penalties imposed (arts. 8 and 24).

The State party should investigate all cases of human trafficking and child labour and step up its campaigns to raise public and family awareness of human trafficking and child labour.

Police custody, pretrial detention and basic legal guarantees

18. The Committee is concerned that the prescribed 48-hour period of police custody, which may be renewed once, is not always respected, for instance by the DST. The Committee is also concerned about the disproportionate use of pretrial detention, which results in excessive and abusive periods of detention, exceeding the legal limit by as much as several years, for a very large number of people, including those detained in connection with the post-election crisis of 2010–2011. It is concerned that basic legal guarantees, in particular the obligation to inform persons of their rights, the right to have access to a lawyer and a doctor, the right to communicate with family members and the right to be brought promptly before a judge, are often not respected. The Committee is concerned, in addition, about reports of the lack of regular monitoring of the legality of detention and of cases of detention without any legal basis on DST premises (arts. 9, 10 and 14).

In the light of the Committee's general comment No. 35 (2014) on liberty and security of person, the State party should, in compliance with the Covenant and in the context of the current reform of the Criminal Code and the Code of Criminal Procedure: (a) take the necessary steps to ensure respect for the prescribed periods of police custody and pretrial detention in order to prevent abusive and excessive periods of detention; (b) take steps to ensure regular monitoring of the lawfulness of detention, particularly at the DST; (c) take steps to terminate unlawful detention on DST premises; and (d) take steps, as a matter of urgency, to address the situation of persons who have been in pretrial detention for years, especially those detained in the context of the post-election crisis of 2010–2011. The State party should also systematically ensure that persons held in police custody or pretrial detention are informed of their rights and that the above-mentioned basic legal guarantees are respected, particularly the right to have access to a lawyer. Lastly, it should ensure that detainees who have served their sentences are released as soon as possible.

Conditions of detention

19. The Committee notes with concern that conditions of detention are substandard in almost all prison facilities in the State party. It is particularly concerned about the very high rate of overcrowding, especially at the Abidjan Detention and Correctional Facility, and notes the high percentage of persons in pretrial detention in the State party's prisons. The Committee is also concerned about reports of unsatisfactory hygienic conditions, inadequate medical care and the poor quality of food served to inmates. The Committee is concerned, in addition, about the failure to respect the principle of separation between adults and minors and between remand and convicted prisoners. It regrets the lack of information concerning the effectiveness of the mechanism for receiving complaints from detainees (arts. 9 and 10).

The State party should step up its efforts to improve the living conditions and treatment of persons held in custody, including their access to proper medical care, and continue to take steps to address the problem of overcrowded prisons in accordance with the Standard Minimum Rules for the Treatment of Prisoners. It should ensure that persons do not remain in pretrial detention beyond the prescribed time limits and should introduce a genuine policy on the use of non-custodial penalties. It should take the necessary steps to separate prisoners by age, sex and custodial status.

Administration of justice and fair trial

20. The Committee is concerned about reports of numerous failures and shortcomings in the State party's judicial system, particularly the lack of independence of the judiciary owing to interference by the executive branch in the administration of justice, the bias and lack of fairness allegedly displayed by judges in handling cases concerning the post-election crisis of 2010–2011, corruption, the remoteness of the justice system, despite the establishment of new courts, the insufficient number of judges, the serious backlog of cases and the inadequacy of legal assistance (art. 14).

The State party should take all necessary steps to bring about a far-reaching reform of its judicial system. It should, in particular: (a) effectively guarantee the independence of the judiciary; (b) take more vigorous steps to fight corruption; (c) step up measures aimed at guaranteeing access to justice, especially by continuing to establish new courts; (d) continue training a sufficient number of judges; (e) reduce the backlog of cases and ensure the impartiality of the justice system in handling cases relating to the post-election crisis; and (f) avoid the systematic placement of persons in pretrial detention. The State party should also reform the legal aid mechanism to make it more accessible for persons living in remote areas and provide it with sufficient resources to enable it to operate more effectively.

Freedoms of expression and of assembly and association

21. The Committee is concerned about reports of sanctions, even in some cases temporary publication bans, imposed on certain media, including those of the political opposition. The Committee is also concerned about reports of assaults on freedom of association and assembly involving prohibitions on demonstrations in the State party by certain opposition political parties and certain non-governmental organizations. While noting with satisfaction that the State party adopted Act No. 2014-388 of 20 June 2014 on the promotion and protection of human rights defenders, the Committee remains concerned about reports of threats and acts of harassment and intimidation against human rights defenders and notes that the said Act has not yet been promulgated. In addition, the Committee is concerned about the fact that such infringements are not always followed by investigations, prosecutions, convictions and punishment of the perpetrators (arts. 19, 21 and 22).

In the light of the Committee's general comment No. 34 (2011) on freedom of opinion and expression, the State party should ensure that any restriction on press and media activities is in strict compliance with the provisions of article 19, paragraph 3, of the Covenant. The State party should also remove any unnecessary restrictions on freedom of assembly, particularly on the freedom of political parties and non-governmental organizations to demonstrate. It should, in addition, take the necessary steps to ensure that human rights defenders are protected against threats and intimidation, to give them the freedom they need to carry out their work, and to investigate, prosecute and convict perpetrators of harassment, threats and intimidation. Lastly, the State party should promulgate Act No. 2014-388 of 20 June

2014 on the promotion and protection of human rights defenders and ensure that it is effectively enforced.

Birth registration

22. While noting the action taken by the State party, the Committee is concerned about the very large number of children who remain unregistered in the State party, especially in **the western part and remotest regions of the country (arts. 16 and 24).**

The State party should step up measures to expedite the registration of children who remain unregistered. It should also reform and modernize its Civil Registry to ensure that births are systematically registered throughout the territory of the State party. The State party should, in addition, continue to mount public and family awareness-raising campaigns concerning birth registration.

Dissemination of the Covenant

23. **The State party should widely disseminate the Covenant, its two optional protocols, the initial report, the written replies to the list of issues drawn up by the Committee and these concluding observations in order to raise awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public.**

24. **In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, information on the action that it has taken to implement the recommendations contained in paragraphs 14, 16 and 18.**

25. **The Committee requests the State party to provide in its next periodic report, which is due by 2 April 2019, specific up-to-date information on the action that it has taken to implement the other recommendations and on its application of the Covenant as a whole. The Committee also requests the State party, when preparing its second periodic report, to broadly consult with civil society and non-governmental organizations. In accordance with General Assembly resolution 68/268, the word limit for the periodic report is 21,200 words.**